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Attorneys for Plaintiff  
10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DAVID VASQUEZ,

17 Defendant.  
18  
19

CR No. 19-00055-MWF-13

GOVERNMENT'S SUPPLEMENTAL  
SENTENCING POSITION

Hearing Date: 5-18-2021  
Hearing Time: 10:00 a.m.

20 Plaintiff United States of America, by and through its counsel  
21 of record, the United States Attorney for the Central District of  
22 California and Assistant United States Attorneys Jennifer Chou and  
23 Sara Milstein, hereby files its supplemental sentencing position as  
24 to defendant David Vasquez.

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1        This supplemental sentencing position is based upon the attached  
2 memorandum of points and authorities, the files and records in this  
3 case, and such further evidence and argument as the Court may permit.

4        Dated: April 27, 2021

Respectfully submitted,

5                                TRACY L. WILKISON  
6                                Acting United States Attorney

7                                BRANDON D. FOX  
8                                Assistant United States Attorney  
9                                Chief, Criminal Division

10                                /s/  
11                                \_\_\_\_\_  
12                                JENNIFER CHOU  
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14                                Assistant United States Attorneys

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16                                UNITED STATES OF AMERICA  
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1 related to defendant's federal drug crime. Id. Over the  
2 government's objection, the district court imposed a sentence of 110  
3 months to reflect credit for the 10-month discharged sentence. Id.  
4 In reversing the district court, the Ninth Circuit held that "the  
5 district court had no discretion to adjust Saldana's sentence below  
6 the mandatory minimum of 120 months provided under 21 U.S.C.  
7 § (b)(1)(A)(viii)" to reflect credit for a discharged sentence. Id.  
8 (citing United States v. Sykes, 658 F.3d 1140, 1146 (9th Cir. 2011)).

9 Saldana is squarely on point with the case here. See also  
10 Sykes, 658 F.3d at 1146 n.7 ("A defendant may escape the mandatory  
11 minimum term only if the safety valve of 18 U.S.C. § 3553(e) or (f)  
12 applies."). Accordingly, the application of any credit for the 36.5-  
13 month sentence defendant has served in the state case is limited by  
14 the five-year mandatory minimum. Accordingly, the Court must impose  
15 a sentence of at least five years' imprisonment for Count Seven, to  
16 be followed by the five-year consecutive sentence mandated for Count  
17 Sixty-Three, for a total minimum sentence of ten years.

### 18 **III. CONCLUSION**

19 For the reasons set forth above and in the government's  
20 sentencing position, the government recommends that the Court impose  
21 the following sentence: A sentence of 78 months as to Count One, a  
22 sentence of 78 months as to Count Seven, to run concurrently to each  
23 other, and a sentence of 60 months as to Count Sixty-Three, to run  
24 consecutively, for a total custodial sentence of 138 months, or 11.5  
25 years, followed by a four-year period of supervised release with the  
26 terms and conditions recommended in the Revised PSR Letter; and a  
27 mandatory special assessment of \$300.